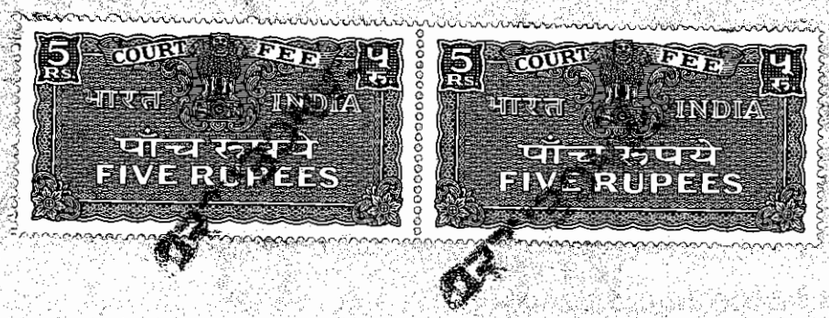

SINGLE BENCH

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CF102

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CHHATTISGARH)

W.P.(C) No. 7221 Of 2006

PETITIONER :- Maroti Rao Launde, son of Madhukar Launde, aged about 42 years, Proprietor Amar Band Party, Farishta Complex and near Chitarmal Khandelwal Dharamshala, Station Road, Durg, Tahsil and District Durg (Chhattisgarh).

P.R. No. 23516
Presented by Sri J.K. Gupta
dated 13/12/06

VERSUS

RESPONDENT :- Shyam Sunder Khandelwal, son of Late Prabhu Dayalji Khandelwal, Aged about 56 years, resident of Gandhi Chowk, Durg, Tahsil and District Durg (Chhattisgarh).

PETITION UNDER ARTICLE 227 OF CONSTITUTION OF INDIA

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 7221 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11.1.2007 Shri H.B. Agrawal, learned Sr. Advocate with Ms. Sangeeta Mishra, learned counsel for the petitioner. This petition is directed against the order dated 6.10.2006 passed by Second Civil Judge, Class-II, Durg by which application under Order 6 Rule 17 C.P.C. for amendment of the written pleadings and an application under Order 8 Rule 1 A (3) of the C.P.C. for filing documents, have been rejected. Learned counsel for the petitioner submits that by the proposed amendment the defendant intended to incorporate a pleading to this effect that the suit is based on a Will, however, no probate or succession certificate has been issued in favour of the plaintiff, therefore, legally the plaintiff cannot be held to be owner of the suit house. But the Court below rejected the application under Order 6 Rule 17 C.P.C. with an observation that since the defendant has already accepted that he is the tenant of plaintiff, he is estopped from disputing the land lordship of the plaintiff. The Court below also rejected the another application under Order 8 Rule 1 A (3) CPC for taking documents on record, on the ground that since the amendment application has been rejected, the documents sought to be produced in record, have become redundant. I have heard learned counsel for the petitioner. Taking into consideration the nature of dispute existing between the parties in the above suit and further considering the reasons assigned by	

P.T.O.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP/2221/ **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	the Court below in the impugned order for rejecting the applications of the defendant, this Court is of the opinion that there is no error in the exercise of jurisdiction by the Court below which may occasion failure of justice or grave injustice to the parties, which warrants interference by this Court under Article 227 of the Constitution of India as the amendment sought by the petitioner is in fact a legal question and that can be agitated by the petitioner at any stage. With the aforesaid observations, the instant petition being devoid of substance is hereby dismissed at the admission stage itself. **Sd/-** **Dhirendra Mishra** **Judge**	

P.T.O.